



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-897]

Utility Scale Wind Towers from India: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that utility scale wind towers (wind towers) from India are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation July 1, 2019, through June 30, 2020.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova or Amaris Wade, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1280 or (202) 482-3874, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 24, 2021, Commerce published in the *Federal Register* the preliminary affirmative determination in the LTFV investigation of wind towers from India.¹ Commerce invited interested parties to comment on the *Preliminary Determination*. On June 24, 2021, we received case briefs from Vestas Wind Technology India Private Limited (Vestas India); Anand Engineering Products Private Limited, Windar Renewable Energy Private Limited, and GRI Towers India Private Limited (collectively, Other Producers); and the Wind Tower Trade

¹ See *Utility Scale Wind Towers from India: Preliminary Affirmative Determinations of Sales at Less than Fair Value*, 86 FR 27829 (May 24, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

Coalition (the petitioner).² On August 17, 2021, we held a public hearing at the request of Vestas India, the Other Producers and the petitioner.³ A summary of the events that occurred since Commerce published the *Preliminary Determination*, may be found in the Issues and Decision Memorandum.⁴

Scope of the Investigation

The products covered by this investigation are wind towers from India. For a complete description of the scope of this investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Verification

Because the sole mandatory respondent in this investigation, Vestas India, did not cooperate in this investigation by failing to file a complete response to Commerce's supplemental section D questionnaire by the established deadline, Commerce reached the *Preliminary Determination* entirely on the basis of facts available with the application of adverse

² See Vestas India's Letter, "Vestas' Case Brief," dated June 24, 2021; *see also* Other Producers' Letter, "Submission of Case Brief for 'Other Producers,'" dated June 24, 2021; and Petitioner's Letter, "Case Brief," dated June 24, 2021. The petitioner in this investigation is the Wind Tower Trade Coalition, whose members are Arcosa Wind Towers Inc. and Broadwind Towers, Inc.

³ See Transcript to Public Hearing, dated August 17, 2021.

⁴ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from India," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

inferences (AFA). As such, because the *Preliminary Determination* was based entirely on AFA, we did not conduct a verification.

Use of Adverse Facts Available

In the *Preliminary Determination*, Commerce found that the mandatory respondent, Vestas India, did not cooperate in this investigation by failing to file a complete response to Commerce's supplemental section D questionnaire by the established deadline. We also found that five other companies did not cooperate in this investigation by failing to provide timely responses to Commerce's quantity and value (Q&V) questionnaire. These companies are: Acciona Wind Power India Pvt. Ltd.; Nordex India Pvt. Ltd.; Prommada Hindustan Private Ltd.; Vinayaka Energy Tek; and Zeeco India Pvt. Ltd. Therefore, in the *Preliminary Determination*, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we assigned Vestas India and the five companies which failed to timely respond to Commerce's Q&V questionnaire a dumping margin based on total AFA. In applying total AFA, we assigned an estimated weighted-average dumping margin of 54.03 percent, the sole dumping margin alleged in the Petition,⁵ which Commerce corroborated to the extent practicable within the meaning of section 776(c) of the Act. We continue to find the application of total AFA to Vestas India and the five companies which failed to respond to Commerce's Q&V questionnaire, pursuant to sections 776(a) and (b) of the Act, is warranted in the final determination.

Changes Since the *Preliminary Determination*

Based on our analysis of comments received, we made no changes to the *Preliminary Determination*.

All-Others Rate

As discussed in the *Preliminary Determination*, Commerce based the estimated weighted-average dumping margin for all other producers and exporters on the only dumping

⁵ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties," dated September 30, 2020 (the Petition).

margin alleged in the Petition, pursuant to section 735(c)(5)(B) of the Act. We made no changes to this rate for this final determination.

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter/Producer	Dumping Margin (percent)	Cash Deposit Rate (adjusted for subsidy offsets)⁶ (percent)
Vestas Wind Technology India Private Limited	54.03	51.87
Acciona Wind Power India Pvt. Ltd.	54.03	51.87
Nordex India Pvt. Ltd.	54.03	51.87
Prommada Hindustan Private Ltd.	54.03	51.87
Vinayaka Energy Tek	54.03	51.87
Zeeco India Pvt. Ltd.	54.03	51.87
All Others	54.03	51.87

Disclosure

The estimated weighted-average dumping margins assigned to Vestas India and the non-responsive companies in this investigation are based on total AFA. These rates are based on information from the Petition, and are unchanged from the *Preliminary Determination*.

Accordingly, there are no calculations to disclose for this final determination.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of wind towers from India, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after May 24, 2021, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*.

⁶ See Memorandum, “Export Subsidies Found in the Companion Countervailing Duty Investigation,” dated concurrently with this notice.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the companies listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin listed above.

These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of this final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of wind towers from India no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this determination in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: October 6, 2021.

Christian Marsh,
*Acting Assistant Secretary
for Enforcement and Compliance.*

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Sections in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Discussion of the Issues
 - Comment 1. Whether the Petitioner has Standing in This Investigation
 - Comment 2. The Application of Adverse Facts Available (AFA) to Vestas Wind Technology India Private Limited (Vestas India)
 - Comment 3. The AFA Rate to Apply to Vestas India
 - Comment 4. Selection of Appropriate Rate for All Other Exporters/Producers
 - Comment 5. Whether Commerce Should Reject the Multinational Corporation (MNC) and the Particular Market Situation (PMS) Allegations
- IV. Recommendation

[FR Doc. 2021-22245 Filed: 10/12/2021 8:45 am; Publication Date: 10/13/2021]